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June 14, 2022

By ECF  
Hon. J. Paul Oetken  
United States District Judge  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

**Re:    United States v. Felix Rodriguez**  
**21 Cr. 361 (JPO)**

Dear Judge Oetken,

A conference in this matter is scheduled for Thursday, June 16, 2022, at noon. Assuming that it is convenient for the Court, I write now to respectfully request that the conference be adjourned to any day the week of July 11<sup>th</sup> (*except* July 11th).

By letter dated June 13, 2022 (Doc. #35), the Government informed the Court that Mr. Rodriguez has now been found legally incompetent by both the Defense expert, Dr. Leo Shea (see report dated April 9, 2022), as well as the Government's expert, Dr. Cheryl Paradis (see report dated June 14, 2022). Given these expert opinions, as well as my own independent lay-observations of Mr. Rodriguez, I agree with the Government that "a sufficient factual basis exists for the court to make a finding pursuant to 18 USC §4241(d) that the defendant in his current state is not legally competent to proceed" and that therefore, under §4241(d) the court has no choice but to remand Mr. Rodriguez to the custody of the attorney general to be hospitalized to determine if he can be "restored to competency." See 18 USC 4241(d), Doc. #35.

Last Thursday, defense counsel underwent complete hip-replacement surgery. Although the surgery went well, I am not yet able to move around comfortably or at-will. Moreover, I am required to take certain medications which *may* interfere with my ability to think clearly. Thus, given my present condition, I am unable to meet physically with Mr. Rodriguez in my office, and I hesitate to have such a serious conversation with him over the phone. Moreover, I would like to pursue one additional avenue of possible resolution with the Government prior to the signing of the commitment order proposed by the Government.

I have discussed the above with AUSA Rebecca Dell and AUSA Jun Xiang who consent to this request for the reasons stated above. Finally, in view of the above, and in the interests of justice, the defense has no objection to the exclusion of time under the Speedy Trial Act.

Thank you for the Court's consideration.

Respectfully Submitted,

/s/ *Matthew J. Kluger*  
Matthew J. Kluger, Esq.

cc: AUSA Rebecca Dell  
AUSA Jun Xiang

Granted. The June 16, 2022 pretrial conference is adjourned to July 12, 2022, at 3:30 pm. The Court hereby excludes time through July 12, 2022, under the Speedy Trial Act, 18 USC 3161(h)(7)(A), finding that the ends of justice outweigh the interests of the public and the defendant in a speedy trial.

So ordered: June 14, 2022



J. PAUL OETKEN  
United States District Judge